

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 1999-312-C - ORDER NO. 1999-799  
NOVEMBER 9, 1999

IN RE: Application of Columbia	)	ORDER APPROVING
Telecommunications, Inc. d/b/a aXessa for a	)	EXPEDITED REVIEW
Certificate of Public Convenience and	)	AND GRANTING
Necessity to Provide Local Exchange	)	CERTIFICATE TO
Telecommunications Services within the State	)	PROVIDE LOCAL
of South Carolina and for Flexible	)	EXCHANGE SERVICES
Regulation.		

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the Application of Columbia Telecommunications, Inc. d/b/a aXessa ("aXessa" or the "Company") for authority to provide Local Exchange Service within the State of South Carolina and by way of the Company's Motion for Expedited Review of Application. The Applicant requests authority to provide local exchange service within South Carolina with initial deployment to those areas served by BellSouth Telecommunications, Inc. and also requests that the Commission regulate its local telecommunications services in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C. The Application was filed pursuant to S.C. Code Ann. § 58-9-280 and the Regulations of the Commission.

By letter, the Commission's Executive Director instructed aXessa to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas

affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. aXessa complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition (“SCTC”).

On September 30, 1999, counsel for SCTC filed with the Commission a Stipulation in which aXessa stipulated that it would only seek authority in non-rural local exchange (“LEC”) service areas of South Carolina and that it would not provide any local service to any customer in a rural incumbent’s service area, unless and until aXessa provided written notice of its intent prior to the date of the intended service. aXesssa also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. aXesssa agreed to abide by all State and Federal laws and to participate to the extent it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to aXesssa provided the conditions contained in the Stipulation are met. The Stipulation is approved, incorporated as a part of this Order, and attached hereto as Order Exhibit 1.

On October 13, 1999, aXesssa filed its Motion for Expedited Review of its Application and served the Motion on all parties. No opposition to the Motion was received by the Commission. In support of its Application and Motion for Expedited Review, the Company submitted the verified testimony of Derrel Duplechin, Vice

President of Engineering for aXessa. The purpose of Duplechin's testimony was to provide support for the granting of aXessa of authority to provide resold and facilities-based local exchange service within the State of South Carolina.

The Commission, in its regularly scheduled Commission Meeting on October 26, 1999, considered aXesssa's Motion for Expedited Review. The Commission recognizes that aXesssa has been approved to operate as a reseller of interexchange services in South Carolina.<sup>1</sup> Further, the Commission recognizes that Mr. Duplechin previously appeared before the Commission and testified as to aXessa's abilities to provide intrastate interexchange telecommunications services in South Carolina. As no opposition to aXessa's Motion for Expedited Review was received, the Commission will grant aXessa's Motion for Expedited Review and will consider aXessa's Application in the Commission Meeting. The Commission's discussion and deliberation in the presence of a court reporter and with verified testimony of the witness will be deemed a hearing for the purposes of consideration of the Application.

### **DISCUSSION**

S.C. Code Ann. § 58-9-280 (Supp. 1998) provides that the Commission may grant a certificate to operate as a telephone utility...to applicants proposing to furnish local telephone service in the service territory of an incumbent LEC.

After full consideration of the applicable law, aXessa's application, the Motion for Expedited Review of the Application, and evidence submitted by aXessa, the

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<sup>1</sup> aXessa's application for authority to operate as a reseller of interexchange telecommunications services was approved by the Commission at its regularly scheduled meeting of October 5, 1999. Order No. 1999-797, dated November 8, 1999, in Docket No. 1999-213-C was issued memorializing the Commission's grant of authority to aXessa to provide intrastate interexchange telecommunications services.

Commission finds and concludes that the Certificate sought by aXessa should be granted. The Commission's determination is based on the following criteria as provided in S.C. Code Ann. §58-9-280 (Supp. 1998) and the evidence submitted in support of the motion which relates to that criteria:

1. The Commission finds that aXessa possesses the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. § 58-9-280(B)(1) (Supp. 1998). Mr. Duplechin's testimony reveals aXessa is a Delaware corporation that is qualified to conduct business within the State of South Carolina as evidenced by the Certificate of Authorization from the Secretary of State of South Carolina. The record reveals that aXessa seeks authority to offer local telecommunications services throughout the State of South Carolina with initial deployment in those areas of the state served by BellSouth. According to the testimony of Mr. Duplechin, following the launch of local service with resale aXessa plans to transition to a facilities-based operation by utilizing its own Class 5 switch and unbundled network elements provided by the local exchange carrier. aXessa plans to offer a full range of local services to both business and residential customers. aXessa's local exchange services will include basic dial tone lines and services; analog and digital PBX trunks; analog and digital DID trunks; and Centrex-type lines and services. Further, aXessa will support direct dial calling, toll free calling, operator assisted calling, directory assistance, emergency 911 calling, and connectivity to Telecommunications Relay Services.

Regarding aXessa's financial resources, Mr. Duplechin testified that the Company has raised \$7.5 million in equity and another \$17 million in debt. Mr. Duplechin offers that aXessa is well funded to proceed with its service offerings. With regard to managerial resources, the record reveals extensive business and telecommunications experience among aXessa's management personnel. As further evidence of aXessa's abilities to provide the services for which it seeks authority, Mr. Duplechin testified that aXessa is currently providing local services in 10 states.

Based on the undisputed testimony of witness Duplechin, the Commission finds that aXessa possesses the technical, financial, and managerial resources sufficient to provide the services requested.

2. The Commission finds that aXessa will provide services which will meet the service standards of the Commission. S.C. Code Ann. § 58-9-280 (B)(2) (Supp. 1998). Mr. Duplechin stated aXessa will comply with all applicable rules, policies and statutes applicable to the offering of those services. Based on the undisputed testimony of Mr. Duplechin, the Commission believes, and so finds, that aXessa will provide telecommunications services that will meet the service standards of the Commission.

3. The Commission finds that aXessa's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. § 58-9-280 (B)(3) (Supp. 1998). Witness Duplechin's testimony reveals that aXessa believes that approval of its Application will further the public interest by enhance competition thereby benefiting both business and residential customers by providing affordable service, quality of service, innovative products, and excellent customer

service. Therefore, based on the undisputed evidence of record, the Commission finds that provision of local exchange services by aXessa will not adversely impact affordable local exchange service.

4. The Commission finds aXessa will support universally available telephone service at affordable rates. S.C. Code Ann. § 58-9-280 (B)(4) (Supp. 1998). aXessa agreed in the Stipulation with the SCTC to participate in the support of universally available telephone service at affordable rates as required by State and Federal laws and as required by the Commission's Rules and Regulations. Based on the undisputed evidence of record, the Commission finds that aXessa will participate in support of universally available telephone service at affordable rates.

5. The Commission finds that the provision of local exchange service by aXessa "does not otherwise adversely impact the public interest." S.C. Code Ann. § 58-9-280 (B)(5) (Supp. 1998). Mr. Duplechin's testimony indicates that approval of aXessa's application will benefit South Carolina customers. According to Mr. Duplechin, aXessa's entry into the local market will enhance competition and will therefore benefit consumers in South Carolina.

Therefore, based on the findings above, the Commission finds and concludes that a Certificate of Public Convenience and Necessity to provide local exchange telecommunications services within the non-rural areas of South Carolina should be granted to aXessa.

IT IS THEREFORE ORDERED THAT:

1. The Application of aXessa for a Certificate of Public Convenience and Necessity to provide competitive intrastate local exchange services within the non-rural local exchange service areas is approved. aXessa is authorized to provide competitive local exchange services in these areas in South Carolina. The terms of the Stipulation between aXessa and SCTC are approved and adopted as a portion of this Order. Any proposal to provide local services to rural service areas is subject to the terms of the Stipulation.
2. aXessa shall file, prior to offering local exchange service in South Carolina, a final tariff of its service offerings conforming to all matters discussed with the Staff, and comporting with South Carolina law in all matters.
3. aXessa shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, and tests and repairs. In addition, aXessa shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. aXessa shall file with the Commission the names, addresses, and telephone numbers of those representatives within thirty (30) days of receipt of this Order. (Attachment A shall be utilized for the provision of this information to the Commission.) Further, aXessa shall promptly notify the Commission in writing if the representatives are replaced.

4. aXessa shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

5. aXessa's local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts a rate design for aXessa's local service offerings which permits aXessa to file its a schedule of maximum rates along with a price list reflecting the actual prices being charged. With regard to aXessa's local exchange service tariff filings, aXessa's local exchange service tariff filings shall be presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing. If the Commission institutes an investigation of a tariff filing, then the tariff filing will be suspended until further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

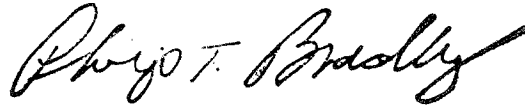
6. aXessa shall file annual financial information in the form of annual reports and gross receipt reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, aXessa shall keep financial records on an intrastate basis to comply with the annual report and gross receipt filings.



7. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a “Public Safety Communications Center,” which is more commonly known as a “911 system” or “911 service.” Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs aXessa to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association (“SC NENA”) with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator or at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, AXESSA, shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company’s operations as required by the 911 system.

8. This Order shall remain in full force and effect until further Order of the Commission.

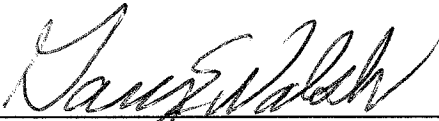
BY ORDER OF THE COMMISSION:



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Chairman

ATTEST:



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Executive Director

(SEAL)

DOCKET NO. 1999-312-C - ORDER NO. 1999-799  
NOVEMBER 9, 1999  
ATTACHMENT A

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**INFORMATION OF THE AUTHORIZED UTILITY  
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL  
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION  
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission  
the name, title, address, and telephone number of the persons who should be contacted in  
connection with Customer Relations/Complaints.

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Company Name/DBA Name

---

Business Address

---

City, State, Zip Code

---

Authorized Utility Representative (Please Print or Type)

---

Telephone Number

Fax Number

---

E-Mail Address

---

This form was completed by      Signature

If you have any questions, contact the Consumer Services Department at 803-896-5230

Please return the above form to: The Public Service Commission of South Carolina  
P.O. Drawer 1164  
Columbia, SC 29211

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF  
SOUTH CAROLINA

Docket No. 1999-312-C

Re: Application of Columbia Telecommunications, )  
Inc. dba aXessa for a Certificate of Public )  
Convenience and Necessity to Provide Local )  
Exchange Telecommunications Services in )  
the State of South Carolina )  
\_\_\_\_\_ )

**STIPULATION**

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Columbia Telecommunications, Inc. dba aXessa ("Columbia Telecommunications") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, the necessity for SCTC's intervention in this matter is avoided and SCTC withdraws its opposition to Columbia Telecommunications' Application. SCTC and Columbia Telecommunications stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Columbia Telecommunications, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. Columbia Telecommunications stipulates and agrees that any Certificate which may be granted will authorize Columbia Telecommunications to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. Columbia Telecommunications stipulates that it is not asking the Commission to

make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Columbia Telecommunications stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Columbia Telecommunications provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Columbia Telecommunications acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Columbia Telecommunications stipulates and agrees that if, Columbia Telecommunications gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then Columbia Telecommunications will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Columbia Telecommunications acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to

the rural incumbent LECs, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Columbia Telecommunications agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. Columbia Telecommunications hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 27<sup>th</sup> day of September, 1999.

Columbia Telecommunications, Inc.,  
dba aXessa

David Butler  
PRESIDENT / COO

Attorneys for Columbia Telecommunications  
Inc. dba aXessa

South Carolina Telephone Coalition:

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M. John Bowen, Jr.  
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Post Office Box 11390  
(803) 799-9800

Attorneys for the South Carolina Telephone  
Coalition

## ATTACHMENT A

### South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.  
Bluffton Telephone Company, Inc.  
Chesnee Telephone Company  
Chester Telephone Company  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company  
Hargray Telephone Company, Inc.  
Heath Springs Telephone Company Inc.  
Home Telephone Company, Inc.  
Lancaster Telephone Company  
Lockhart Telephone Company  
McClellanville Telephone Company  
Norway Telephone Company  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
Pond Branch Telephone Company  
Ridgeway Telephone Company  
Rock Hill Telephone Company  
Sandhill Telephone Cooperative, Inc.  
St. Stephen Telephone Company  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company